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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEB 24 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

The NYNEX Telephone Companies

Offer of Comparably Efficient
Interconnection to Payphone
Services Providers

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CC Docket No. 96-128

CC Docket No. 91-35

NYNEX REPLY

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SUMMARY

Despite various commentors' assertions, NYNEX's Comparably Efficient Interconnection ("CEI") Plan for Payphone Services meets the Commission's standards and should be approved. That Plan sufficiently unbundles the underlying network services to be utilized by NYNEX's Payphone Services being deregulated by the Commission; shows how those network services will be available under the same nondiscriminatory rates, terms and conditions for use by payphone services whether offered by NYNEX or nonaffiliated competitors; and sets forth NYNEX's compliance with CEI parameters and FCC nonstructural safeguards. The comments by opposing parties -- primarily competitors of NYNEX that would benefit from delaying the effectiveness of NYNEX's Plan -- largely misunderstand the FCC's standards for review of a CEI Plan, and are baseless and/or irrelevant.

In Section I, we show that NYNEX has appropriately unbundled and tariffed the underlying network services that its Payphone Services Provider ("PSP") will use. No further unbundling is required for CEI Plan approval, and federal tariffs are not required for those services. The NYNEX PSP will not utilize any underlying network services not available to competing PSPs under the same rates, terms and conditions. Certain parties' criticisms of NYNEX's state tariffs for those services are outside the scope of the present CEI proceeding. Those parties' contentions represent untimely requests for FCC reconsideration of its Payphone Orders, since the Commission specifically held that it

will rely on the states to ensure that the basic payphone line is tariffed in accordance with the requirements of Section 276.

In Section II, NYNEX demonstrates that its basic payphone access line services are nondiscriminatory and meet FCC requirements. The NYNEX PSP and nonaffiliated PSPs will be treated on a nondiscriminatory basis with regard to availability of services, discount plans, operator services, screening codes, number assignments, and service order processing, installation and repair.

Furthermore, NYNEX's provision of inmate payphone services is consistent with the Commission's CEI requirements (Section III). Contrary to suggestions by the Inmate Calling Services Providers Coalition ("ICSPC"), NYNEX's inmate calling service will be part of NYNEX's deregulated Payphone Services covered by the CEI Plan.

Finally, as part of their shotgun approach, parties raise several miscellaneous issues that, as shown in Section IV, in no way detract from NYNEX's CEI Plan.

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NYNEX REPLY¹

Notwithstanding various parties' comments,² NYNEX's Comparably Efficient Interconnection ("CEI") Plan for Payphone Services meets the Commission's standards and should be approved. That Plan sufficiently unbundles the underlying network services to be utilized by NYNEX's Payphone Services being deregulated by the Commission³; shows how those network services will be available under the same nondiscriminatory rates, terms and conditions for use by payphone services whether

¹ The NYNEX Telephone Companies ("NYNEX") are New England Telephone and Telegraph Company and New York Telephone Company.

² AT&T, American Public Communications Council ("APCC"), Inmate Calling Services Providers Coalition ("ICSPC"), Independent Payphone Association of N.Y., Inc. ("IPANY"), MCI, New England Public Communications Council, Inc. ("NEPCC"), Oncor Communications, Inc. ("Oncor") and Telco Communications, Inc.

³ See Section 276 of Communications Act; Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 95-388, released September 20, 1996 ("Payphone Order"), Order on Reconsideration, FCC 96-439, released November 8, 1996 ("Payphone Recon. Order").

offered by NYNEX or nonaffiliated competitors; and sets forth NYNEX's compliance with CEI parameters and FCC nonstructural safeguards. The comments by opposing parties -- primarily competitors of NYNEX that would benefit from delaying the effectiveness of NYNEX's Plan -- largely misunderstand the FCC's standards for review of a CEI Plan, and are baseless and/or irrelevant.⁴ Rather than taking the opportunity to truly evaluate and scrutinize individual BOC CEI Plans, some commentors simply filed almost identical comments on all of the BOC CEI Plans.⁵

**I. NYNEX HAS APPROPRIATELY UNBUNDLED AND
TARIFFED THE UNDERLYING NETWORK SERVICES
FOR PAY TELEPHONE SERVICE PROVIDERS**

APCC complains (pp. 4-5) that NYNEX's CEI Plan does not include federal tariffs for coin line features.⁶ This complaint has no basis, and APCC misunderstands the Commission's jurisdictional tariffing requirements. The Commission has required LECs to provide tariffed, nondiscriminatory basic payphone services that enable independent payphone service providers ("PSPs") to offer payphone services using either instrument-implemented "smart payphones" or "dumb" payphones that utilize central office coin services, or some combination of the two in a manner similar to the LECs. The

⁴ In responding to these parties' contentions, this Reply does not provide any new CEI information that would warrant any further pleading cycle or delays as sought by APCC (p. 2). Notably, the Commission has observed: "[w]e anticipate that payphone CEI plans will raise fewer issues than CEI plans for enhanced services." Payphone Recon. Order para. 220.

⁵ For example, APCC at p. iv refers to NYNEX as U S West, and at pp. 19-20 attributes CEI Plan statements to NYNEX made in another BOC's CEI Plan relative to Customer Proprietary Network Information ("CPNI"). Even APCC's Errata filed February 12, 1997 failed to completely correct these errors.

⁶ NEPCC echoes APCC's contentions on this and other issues.

Commission expressly directed that “LECs must file those tariffs with the state.”⁷ As explained in the CEI Plan, NYNEX is complying with this requirement by continuing to offer a variety of tariffed Public Access Line (“PAL”) services in all its state jurisdictions, supplemented by four additional state tariffed (PAL) service offerings: One-Way Basic Coin Access Line; Two-Way Basic Coin Access Line; Inmate Public Access Line; and Charge-A-Call Public Access Line.⁸ The functionalities associated with these NYNEX PALs represent the minimum set of functionalities that are required to provide payphone service and thus essentially define the exchange service itself. NYNEX does not plan to use or provide any unbundled features or functions beyond those offered as part of its PAL services. Accordingly, NYNEX has satisfied CEI requirements since the Commission has held that: “[f]or CEI purposes a BOC must only make available to others the same basic services that it uses. ... [No] further unbundling ... is required to satisfy CEI requirements.”⁹

In its Payphone Recon. Order (para. 165), the Commission declined to order further unbundling of payphone services beyond the basic payphone line as noted above. The Commission again emphasized that “LECs are not required to file tariffs for the basic payphone line for smart and dumb payphones with the Commission.”¹⁰

⁷ Payphone Recon. Order para. 162.

⁸ NYNEX CEI Plan, pp. 3-4, Appendix A, Attachment A.

⁹ NYNEX CEI Plan For Voice Messaging Services, 4 FCC Rcd 554, para. 15 (1989).

¹⁰ Payphone Recon. Order paras. 163, 165. The Commission did clarify that going forward: any unbundled network features provided to a CEI payphone operation must be nondiscriminatory and tariffed in both the federal and state jurisdictions; and independent payphone providers may request

APCC goes on to contend, erroneously, that NYNEX has not unbundled coin line features from the basic payphone line, and therefore has not met the FCC's CEI requirements.¹¹ As noted above, such further unbundling has not been ordered by the Commission, and the ONA 120-day request process is in place to handle specific future unbundling requests. NYNEX has complied with the FCC's nondiscrimination and unbundling requirements by making available to all PSPs those services which it uses in providing its own payphone services such that they may use smart sets, dumb sets or combinations of both.

APCC criticizes NYNEX's PAL service tariffs for not permitting APCC to make effective comparisons between charges/service elements, and for not disclosing pricing methodologies.¹² APCC would like NYNEX to disclose its PAL rate setting methodologies so that the Commission can ensure there is no discrimination or subsidy, the contribution levels are the same and the rates are cost based.¹³ The contentions of APCC, IPANY and NEPCC miss the mark. In terms of the FCC's CEI standards, the decisive point is NYNEX's PAL services are used by, and available to NYNEX and nonaffiliated PSPs under the same rates, terms and conditions. NYNEX Payphone

any unbundled features through a 120-day Open Network Architecture ("ONA") process. Id. at para. 165.

¹¹ APCC 5-6.

¹² APCC 5-8.

¹³ See also IPANY 9-11 (complaining of discriminatory relationships between PAL service rates, and of insufficient detail in PAL tariffs); NEPCC 3-5.

Services will not utilize any underlying network services not available to competing PSPs under the same rates, terms and conditions.

Furthermore, these commentators fail to understand the Commission's requirements and the role of the state commissions. As noted above, in compliance with para. 163 of the Payphone Recon. Order, NYNEX filed state tariffs for its network (PAL) services that it uses to provide its own Payphone Services. Pursuant to the Commission's requirements, those tariffs were (1) cost based, (2) consistent with the requirements of Section 276 including the removal of subsidies from exchange and exchange access services, and (3) nondiscriminatory. The Commission specifically stated that it will rely on the states to ensure that the basic payphone line is tariffed in accordance with the requirements of Section 276.¹⁴ Accordingly, the issues raised by APCC, IPANY and NEPCC are outside the scope of the present CEI proceeding; and those parties' contentions represent untimely requests for FCC reconsideration of its Payphone Orders.

APCC complains that subscriber-selected call specific rating is not available from NYNEX.¹⁵ The initial charge ("drop rate") for a local call is programmed into the dumb set. Thus PSPs can establish their own drop rates. In regard to the timing and rating for additional periods and intraLATA toll calls, the NYNEX switch is currently limited to one rating schedule. That rating schedule, which is part of NYNEX regulated operations, is established by state regulation and will not be established by the NYNEX PSP.

¹⁴ Payphone Recon. Order para. 163.

¹⁵ APCC 9. See also IPANY 12; NEPCC 6-7.

Accordingly, call rating is not a CEI Plan approval issue, as the NYNEX PSP will be affected in the same way as any PSP in developing its own rating and pricing schedules. Here again, the ONA 120-day process is available to entertain requests for different call rating.¹⁶

II. NYNEX's BASIC PAYPHONE ACCESS LINE SERVICES ARE NONDISCRIMINATORY AND MEET FCC REQUIREMENTS

Parties raise various baseless claims that NYNEX has not shown its basic PAL services will be offered on a nondiscriminatory basis consistent with FCC CEI requirements.

A. Availability of Services

In response to AT&T's request for clarification,¹⁷ NYNEX's PAL services will be available to nonaffiliated PSPs in all central offices where such services are provided to the NYNEX PSP.

B. Discount Plans

IPANY expresses concern that New York Telephone ("NYT") may give its affiliated PSP lower effective rates (compared to nonaffiliated PSPs) through volume/usage discounts or Individual Contract Basis ("ICB") offerings.¹⁸ However, any

¹⁶ APCC notes (at p. 9) that several parties requested the Commission to provide for this feature in the Payphone Recon. Order, which the Commission did not do. At this time, it is technically infeasible for NYNEX to provide coin rating for multiple carriers. This is an industry-wide issue. NYNEX currently anticipates that by March 31, 1998, its switching and operator platform vendors will have provided the general ability to provide multiple rating for carriers offering coin and coinless service.

¹⁷ AT&T 2; see also APCC 8-9; NEPCC 6.

¹⁸ IPANY 15-17.

discount or ICB offerings will be state-tariffed offerings, subject to PSC approval and available to all PSPs on a nondiscriminatory basis. IPANY tries to convey the impression that NYT's current volume/usage discount and ICB offerings will require large service volumes such that only the NYNEX PSP would qualify for savings.¹⁹ This is wrong. NYT does have nonaffiliated vendors benefiting from local usage discount plans and, as noted above, any new discount plan or ICB would be subject to state commission review and must meet the FCC's nondiscrimination requirement applying to state tariffs.

C. Operator Services

In response to APCC's concerns (p. 18), NYNEX's Operator Services are regulated and will be offered to affiliated and nonaffiliated PSPs on a nondiscriminatory basis. At this time, NYNEX Operator Services does not offer a commission on operator assisted calls. If and when NYNEX Operator Services enters into such arrangements, they will be offered on a nondiscriminatory basis to affiliated and nonaffiliated PSPs.

IPANY (at pp. 11-12) has brought up a number of issues relative to special features and functions, such as referring repair reports and issuing coin refunds, which may be offered by NYNEX regulated operations to its PSP. However, all of the regulated services provided to PSPs by NYNEX -- including any Operator or switch-based services -- will be provided on a nondiscriminatory basis. Public notice of the availability of such services will generally be accomplished through network information disclosure, tariffing

¹⁹ IPANY 16 n.12.

or other appropriate notification vehicles, such as a newsletter to PSPs which may provide notice of an impending Operations Support Systems (“OSS”) capability, for example.²⁰

APCC asks that NYNEX be required to amend its CEI Plan to provide that all non-emergency operator assisted calls will be sent to the provider selected by the PSP.²¹ This is not a CEI issue, and APCC misunderstands the Commission’s requirements. The Commission clarified in its Payphone Recon. Order (para. 243) that while states can require 0- calls to be initially routed to the incumbent LEC or other local service provider, states cannot mandate that the LEC or local service provider ultimately carry non-emergency intraLATA calls initiated by dialing “0” only. NYNEX will comply with this FCC requirement, as implemented in the states. The FCC explained that this requirement is designed to support “free competition in intraLATA presubscription.”²² As such, this is not a requirement of a BOC’s CEI Plan for providing facilities for payphone providers’ interconnection to the network on a nondiscriminatory basis.

D. Screening Codes

Several parties request that NYNEX clarify how it will provide PSPs using PAL services with a screening code to specifically identify their lines as payphone lines on a

²⁰ As of April 1, 1997, NYNEX’s Operator Services will no longer be providing repair referrals or coin refund services to payphone providers. Also, in regard to use of closing “thank you” announcements used for payphones services (brought up by IPANY at p. 11), such announcement capability resides in the smart set itself and is not a capability of the switch.

²¹ APCC 11-12.

²² Payphone Recon. Order para. 242.

nondiscriminatory basis.²³ NYNEX will not discriminate in the provision of payphone coding digits to be conveyed from PSPs to interexchange carriers (“IXCs”) for the identification of per call payphone compensation. Two kinds of payphone lines may be purchased out of NYNEX tariffs which require identification by the IXCs: the Basic Coin Access Line (“BCAL”) -- primarily for use with a “dumb” set, and the Smart Set Public Access Line (“SPAL”) -- primarily for use with a “smart” set. Those two types of lines will be equally available to the NYNEX PSP and nonaffiliated PSPs. Regardless of the identity of the PSP, all traffic originated from BCAL and SPAL lines will provide the ANI coding digits “27” and “07”, respectively, thereby allowing IXCs to identify this traffic as payphone originated.

In addition, NYNEX is complying with the FCC’s requirements (in CC Docket No. 91-35)²⁴ by providing FLEX ANI²⁵ and currently plans to provision Originating Line Number Screening (“OLNS”) as a service alternative. With OLNS, an “07” code is transmitted to the IXCs which through a Line Information Data Base (“LIDB”) dip can then identify a payphone line at their location. This comports with the Commission’s determination that OLNS can be provisioned by means of either a FLEX ANI solution or the use of LIDB technology.²⁶

²³ See APCC 15-17, AT&T 3, MCI 2.

²⁴ See Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Third Report and Order released April 5, 1996.

²⁵ The Commission granted a waiver of certain FLEX ANI requirements. CC Docket No. 91-35, Order released December 20, 1996, para. 13.

²⁶ Docket 91-35 Third Report and Order released April 5, 1996, paras. 19, 31.

Contrary to APCC's concern about an "unreliable" data base,²⁷ the LIDB used in OLNS has a proven track record for accuracy and thus will not discriminate against or disadvantage the IPPs in the collection of per call payphone compensation. NYNEX also believes that the use of LIDB technology represents the most economical and efficient solution for the industry.²⁸

In response to AT&T's somewhat related concern (pp. 3-4), NYNEX does not intend to establish any policy of foregoing uncollectibles due to fraud that would be discriminatory between the NYNEX PSP and nonaffiliated PSPs.

E. Number Assignments

In response to APCC's clarification request (pp. 14-15), NYNEX will apply the same number assignment process for the NYNEX PSP and nonaffiliated PSPs. Thus, for example, NYNEX will not reserve any special block of numbers for its own PSP.

²⁷ APCC 17.

²⁸ For NYNEX to implement any system other than ANI "07" with OLNS for the identification of a SPAL would increase the cost to the PSPs significantly since OLNS is already being developed for other applications. For example, the ANI "70" solution would require substantial vendor applications work and would have to be installed in over 600 NYNEX end offices.

MCI states (p. 2) that LECs do not provide ANI or information digits with Feature Group B service and therefore PSPs would not be able to transmit specific coding digits from payphones from those locations. However, NYNEX is not required to make such an offer. NYNEX does make the transmission of these digits available through FCC Tariff No. 1 for Feature Group D Service, which MCI can purchase. Otherwise, MCI can submit a request under Section 251 or avail itself of the ONA 120 day service request process.

F. Service Order Processing, Installation and Repair

APCC expresses discontent (pp. 12-14) that NYNEX does not provide significant information about the procedures it will follow regarding service ordering processing, installation, maintenance and repair. This is simply not true. In the CEI Plan (pp. 2, 7, 9), NYNEX has described its plan to establish procedures and processes that ensure that affiliated and nonaffiliated PSPs will be treated the same with regard to the quality and time period associated with installation, maintenance and repair of basic network services; and that mechanized access capabilities associated with those functions will be made available on a comparably efficient basis to all PSPs. Thus, NYNEX will update existing procedures and processes and will train personnel²⁹ to ensure that NYNEX's Payphone Services will be treated the same way as nonaffiliated PSPs by the same customer service organizations that deal with nonaffiliated PSPs for the provision, maintenance and repair of network services. This will include the use of the same means of communication (paper, facsimile and systems) and information requirements to initiate, manage, and monitor the status of network service requests and trouble reports. As indicated in NYNEX's CEI Plan (p. 20), the Commission has previously found NYNEX's systems and procedures for ordering, installing, maintaining, and repairing underlying basic services to be nondiscriminatory. Thus, once a network service order or

²⁹ Personnel responsible for network services will be trained to treat affiliated and nonaffiliated PSPs in a nondiscriminatory manner relative to the provision, maintenance and repair of network services. NYNEX's Payphone Services personnel will be trained to comply with all aspects of the FCC's nonstructural safeguards. Both groups will be instructed that careless or intentional disregard for these rules will result in disciplinary action up to and including dismissal.

trouble report is entered into the appropriate NYNEX data base, NYNEX's systems, practices and processes are designed to treat all service orders and trouble reports in a nondiscriminatory manner regardless of the customer.³⁰

Citing "current experience," IPANY alleges (pp. 3-9) that NYT installation and maintenance service is discriminatory and anti-competitive. At the outset, it should be recognized that IPANY does not raise CEI issues³¹ but rather discusses state tariffing issues associated with NYT's general and PAL tariffs. These issues are best dealt with in the state regulatory arena as supported by IPANY's comments which note that NYT, IPANY and the NY PSC are having informal discussions on these very same issues.³²

IPANY's comments in this area contain several misconceptions. IPANY alleges that NYT has unreasonably refused to repair wiring which runs through buildings and serves customer-owned coin operated telephones ("COCOTs") installed on or over the sidewalks directly adjacent to the building (storefront COCOTs). IPANY mentions an instance where the owner of a commercial building refused to allow NYT to use the terminal box in the building to provide service to an independent payphone provider

³⁰ This extends to the use of telephone company network services technicians and organizations responsible for the installation and repair of NYNEX's PAL services to handle the set work associated with NYNEX's Payphone Services. Costs associated with NYNEX's Payphone Services will be appropriately allocated under the FCC's Part 32 and Part 64 rules. This is consistent with the nonstructural safeguards established for enhanced services under ONA and CI-III and for CPE.

³¹ From a CEI perspective, NYNEX has already indicated it will treat affiliated and nonaffiliated PSPs in an equivalent way relative to the provisioning, maintenance and repair of basic network services.

³² IPANY 2-3.

(“IPP”).³³ IPANY claims that NYT must “enforce its rights to access its own network facilities, and honor its obligations to provide service to its competitor.”³⁴

IPANY is wrong. NY PSC tariff regulations place the duty on the COCOT provider (NYT’s customer), not NYT, to make all necessary arrangements to enable NYT to gain access to the premises on which the facilities are located so as to connect and maintain telephone service. NYT’s obligation to provide telephone services to a requesting subscriber is dependent on the subscriber providing NYT with the means to connect its network to the subscriber’s premises. Here the COCOT provider’s pedestal on the sidewalk constitutes, in essence, its premises; and the COCOT provider must provide the means by which NYT can furnish telephone services to that pedestal. For obvious reasons, IPANY would like NYT to have access to the junction box located on the owner’s premises, since this approach would be far less expensive than the COCOT provider’s other alternative which is to obtain the necessary permits and rights of way from the City of New York and to have (at its own expense) a trench dug under the sidewalk to a point where NYT can connect to its network. However, absent such an arrangement, NYT has no right to go on to the owner’s premises to connect these PAL lines to the junction box.³⁵ In the example cited by IPANY, the COCOT provider

³³ IPANY is apparently referring to Teleplex Coin Communications, Inc., a COCOT provider which has a pending complaint before the NY PSC against NYT. This is a matter of state regulatory jurisdiction, not CEI.

³⁴ IPANY 4-5.

³⁵ NYT has faced delicate situations with property owners in urban environments such as New York City, including having its telephone lines improperly cut.

apparently has no legal right to have access to the owner's premises to enable NYT to connect its system to the COCOTs, and therefore has no recourse against the owner.

IPANY also maintains that NYT has improperly declined to provide an alternate route of service, i.e., underground connections between manholes and curbside COCOTs.³⁶ However, NYT will provide a PAL through an underground feed to the pedestal, consistent with NY PSC tariff regulations which place the obligation on the COCOT provider and not NYT to make the necessary arrangements. Under those tariff regulations, it is the COCOT provider's responsibility to pay for the expense associated with the opening and closing of a trench through the sidewalk and to obtain the necessary permits and rights-of-way authorizing the placement and maintenance of the underground facilities. Further, in the deregulated payphone environment, NYT's affiliated PSP will be subject to the same special construction, installation and other charges as nonaffiliated PSPs.³⁷

III. NYNEX's PROVISION OF INMATE PAYPHONE SERVICE IS CONSISTENT WITH THE COMMISSION'S CEI REQUIREMENTS

ICSPC urges the Commission to reject NYNEX's CEI Plan because it supposedly fails to describe the manner in which NYNEX intends to provide its inmate calling service ("ICS"). ICSPC goes on to wrongly speculate that NYNEX may consider its ICS

³⁶ IPANY 5-9.

³⁷ IPANY complains that Empire City Subway Company ("ECSC"), a wholly owned subsidiary of NYT, has declined to install underground conduit for COCOT providers. However, this is general construction work which any qualified contractor may perform.

equipment to be part of the regulated network.³⁸ Apparently, ICSPC is not familiar with NYNEX's CEI Plan nor with the Commission's rules. The Commission requires a short general description of the services covered to be included in the CEI Plan.³⁹ NYNEX provided a short general description of its deregulated Payphone Services in its CEI Plan (p. 2), as required by the FCC, and specifically noted (at n. 4) that such services include inmate service, as required by the Commission and by Section 276. Accordingly, ICSPC's comments are inapplicable and immaterial.

NYNEX agrees that ICS would include "sophisticated call control functions which are customized to the [correctional] facilities' particular needs" as noted by ICSPC (p. 4).⁴⁰ Therefore, the underlying network services, i.e., NYNEX's PAL services, used to interconnect NYNEX's ICS are available on a tariffed basis to all PSPs under the same prices, terms and conditions.⁴¹ ICSPC's speculative arguments based upon its mistaken assumption that NYNEX may consider its ICS to be regulated, should be disregarded.

³⁸ ICSPC 2-10.

³⁹ Third Computer Inquiry, Phase I Order, 104 FCC2d 958, para. 190 (1986).

⁴⁰ Equipment used to provide NYNEX's ICS is presently located on the customer's premises. Pursuant to the Commission's ONA/CEI rules, NYNEX is permitted to collocate such equipment within its switching centers without providing such collocation capability to nonaffiliates, notwithstanding ICSPC's suggestion (p. 18). See generally Computer III Further Remand Proceedings, CC Docket No. 95-20, FCC 95-48, Notice of Proposed Rulemaking released February 21, 1995, n. 71, citing from FCC Expanded Interconnection Orders. Also, ICSPC states (p. 18) that NYNEX's CEI Plan fails to provide the appropriate technical interface information. However, as noted in the CEI Plan (n. 17), NYNEX issued a Network Information Disclosure for its planned new PAL services in December 1996.

⁴¹ ICSPC contends (p. 10) that "the NYNEX CEI Plan does not indicate how NYNEX's ICS operations will be charged for usage of the network by ICS calls." As indicated in the CEI Plan, however, NYNEX Payphones Services (including ICS) will be charged the same tariffed rates that any customer would be charged when using a NYNEX tariffed PAL service.

With respect to fraud control and validation in the context of ICS, no network based functionalities will be uniquely available to the NYNEX PSP (including ICS). Rather, when a call is handed off from NYNEX pay telephones to NYNEX Operator Services (a regulated operation), the call will be handled as a regulated call, and in the same way as any other call handed off to NYNEX's Operator Services. NYNEX Operator Services has available to it the same type of fraud control information available to other carriers via a LIDB query, including whether an account will accept collect or third party billed calls.⁴² The only unique aspect of calls originating in the inmate context is the screening code associated with those lines. In that context, NYNEX PAL services purchased by IPPs or the NYNEX PSP will, at the customer's request, have an associated screening code which will alert Operator Services that calls originating on those lines should be handled on a "collect-only" basis.⁴³

IV. MISCELLANEOUS ISSUES RAISED BY COMMENTORS DO NOT UNDERMINE NYNEX'S PAYPHONE CEI PLAN

As part of their scattershot approach, parties raise several miscellaneous issues that in no way detract from NYNEX's CEI Plan.

⁴² NYNEX does perform fraud analysis by examining, among other things, the pattern of call charging activity. If as a result of that analysis, NYNEX determines that an account is no longer a good risk, it will modify the LIDB to reflect a negative response when that account is queried. That information is available to NYNEX's Operator Services operations at the same time it is available to other carriers' operator services that query NYNEX's LIDB, including information on when a customer would have switched local exchange service providers, including to a CLEC, notwithstanding ICSPC's assertions (p. 15).

⁴³ Similarly, the treatment of uncollectibles with respect to calls that originate on NYNEX ICS will be no different than in the case of other pay telephones, and NYNEX will follow the Commission's Part 32 and Part 64 accounting requirements relating to uncollectibles.

* * * *

Relative to APCC's concern (p. 13) about the location of the demarcation point, the demarcation point for affiliated and non-affiliated PSPs will be established consistent with state and federal rules. That is, PSPs will be considered business customers and as such their payphones located on or adjacent to the property owner's premises will have the demarcation point located within 12 inches of the terminal equipment side of the protector, or if there is no protector within 12 inches of where the telephone wiring enters the premises. PSP payphones located on pedestals or other types of freestanding locations will have the demarcation point in the pedestal.

* * * *

A few commentators seek assurance of nondiscriminatory administration of PIC codes as NYNEX becomes both an IXC and PIC administrator.⁴⁴ This matter is outside the scope of this CEI proceeding which relates to NYNEX's satisfaction of its CEI obligations to payphone providers. In all events, NYNEX's network operations will process all customers' PIC selections in a nondiscriminatory manner.

* * * *

IPANY states that conduit utilized in connection with NYNEX PSP operations must be considered part of NYNEX deregulated operations and made part of the valuation process for assets transferred to those operations.⁴⁵ This matter is irrelevant to

⁴⁴ AT&T 4, Oncor 3.

⁴⁵ IPANY 17-18.

the present CEI Plan compliance review, and IPANY's comments should be dismissed.

The Commission addressed requirements for the valuation of transferred assets in its Payphone Orders, and NYNEX will comply with those requirements.⁴⁶ Conduit costs will be accounted for consistent with FCC Part 32 and Part 64 requirements, including an annual independent attestation audit under FCC oversight.

* * * *

Telco Communications Group (p. 4) seeks more information on NYNEX's compliance with FCC nonstructural safeguards.⁴⁷ In this regard, NYNEX's CEI Plan (pp. 9-11) has adequately set forth NYNEX's compliance process and the Commission's mechanisms of regulatory scrutiny including audits to verify compliance with its rules. The nonstructural safeguards allow for extensive integration of regulated and nonregulated operations, as long as the safeguards precluding discrimination and cross-subsidy are met. The Commission's rules simply do not require detailed delineation on all such instances of shared operations in a CEI Plan.⁴⁸

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Finally, APCC offers the baseless complaint (p. 19) that NYNEX has not adequately explained the treatment of CPNI associated with semi-public pay telephone

⁴⁶ See Payphone Order paras. 159-71; Payphone Recon. Order paras. 178-87.

⁴⁷ See also APCC 1-2, 13-14, IPANY 3.

⁴⁸ Telco Communications Group also takes the position (pp. 5-8) that it should not be required to pay BOC PSPs interim compensation because Telco Communications Group handles very few calls from payphones. Clearly, this CEI proceeding is not the proper forum for consideration of this issue.

service customers. First, APCC is discussing CPNI related statements contained in the CEI Plan of another BOC. Second, APCC makes the belated argument (pp. 20-21) that special rules be applied and notice provided to semi-public payphone location providers given the deregulation of payphone services. APCC's arguments constitute an untimely request for FCC reconsideration of its Payphone Orders. Here again, APCC's arguments appear designed to delay approval of NYNEX's CEI Plan, and should be dismissed.

V. CONCLUSION

Despite various commentators' assertions, NYNEX has met the FCC's key requirement that BOCs provide under tariff the same network functionalities that are made available to their own deregulated pay telephone operations; and NYNEX has fully and adequately set forth its compliance with FCC CEI parameters and nonstructural safeguards. Therefore, NYNEX's CEI Plan for Payphone Services should be approved.

Respectfully submitted,

The NYNEX Telephone Companies

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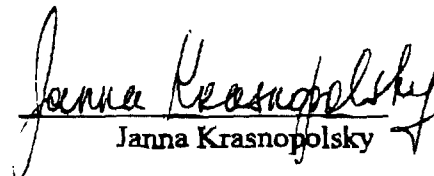
Their Attorney

February 24, 1997

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CERTIFICATE OF SERVICE

I, Janna Krasnopolsky, hereby certify that copies of the foregoing **NYNEX REPLY** in CC Docket Nos. 96-128 and No. 91-35 were served on the parties listed on the attached service list, this 24nd day of February, 1997, by first class United States mail, postage prepaid, or by hand where noted.


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